
OLR Bill Analysis

sHB 5051 (as amended by House "B")*

AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS.

SUMMARY:

This bill requires every for-profit chronic and convalescent nursing home that receives state funding to include with its cost report to the Department of Social Services (DSS) the most recent finalized annual profit and loss statement from any related party that receives \$50,000 or more for providing goods, fees, and services to the nursing home. By law, DSS pays nursing homes per diem rates for caring for their Medicaid-eligible residents. Rates are set prospectively based on cost reports the homes submit annually.

Under the bill, "related party" includes companies related to the nursing home through a family association (i.e., a relationship by birth, marriage, or domestic partnership) or through common ownership, control, or business association with any of the owners, operators, or officials of the nursing home.

The bill prohibits anyone from bringing legal action against the state, DSS, or other state employees or agents for not taking action as a result of information obtained by DSS in cost reports.

The bill also requires the Nursing Home Financial Advisory Committee to convene. It changes its membership, broadens the scope of its duties, and updates meeting deadlines.

Finally, the bill makes technical changes.

*House Amendment "B" (1) increases the threshold for reporting requirements for related parties from \$10,000 to \$50,000 and (2) convenes and modifies the Nursing Home Financial Advisory Committee.

EFFECTIVE DATE: July 1, 2014, except for the advisory committee provisions, which are effective upon passage.

NURSING HOME FINANCIAL ADVISORY COMMITTEE

Membership

The bill requires the advisory committee to convene by August 1, 2014. It removes from the committee (1) the president of LeadingAge Connecticut, Inc. or the president's designee and (2) the executive director of the Connecticut Association of Health Care Facilities or the executive director's designee. The bill adds to the committee the Long-Term Care Ombudsman and directs the governor to appoint (1) a representative of not-for-profit nursing homes and (2) a representative of for-profit nursing homes. The bill also allows the labor commissioner to appoint one nonvoting member. By law, commissioners of public health and social services, or their designees, chair the committee, which also includes Office of Policy and Management secretary and the Connecticut Health and Education Facilities Authority executive director, or their designees.

Duties and Requirements

Current law requires the committee to recommend to DSS and the Department of Public Health (DPH) appropriate action for improving the financial condition of any nursing home that is in financial distress, when it receives reports on nursing homes' financial solvency and quality of care. This bill instead requires the committee to evaluate any information and data available, including the (1) quality of care, (2) acuity, (3) census, and (4) staffing levels of nursing homes operating in the state, to assess their overall infrastructure and projected needs.

Under the bill, the committee must recommend to DSS and DPH appropriate action consistent with the goals, strategies, and long-term care needs of DSS' strategic plan to rebalance Medicaid long-term care supports and services.

Meeting Deadlines

The bill delays until October 1, 2014 the next required quarterly meeting between the advisory committee and the chairpersons and

ranking members of the Appropriations, Human Services, and Public Health committees to discuss nursing homes' financial solvency and quality of care.

BACKGROUND

Chronic and Convalescent Nursing Homes

Chronic and convalescent nursing homes are nursing home facilities licensed by DPH to provide skilled nursing care under medical supervision and direction to carry out nonsurgical treatment and dietary procedures for chronic diseases, convalescent stages, acute diseases, or injuries.

Nursing Home Cost Reports

State law requires nursing homes to submit cost reports to DSS by each December 31. These reports include an accounting by the homes of any related-party transactions that occur during the reporting period. The report form includes space for the home to indicate, for each related party and regardless of the amount of the transaction:

1. the related individual or company name and address,
2. whether the entity also provides goods and services to non-related parties and the percentage of revenue the entity receives from the non-related parties,
3. a description of the goods and services provided,
4. where (page and line number) on the cost report these costs are shown,
5. the cost reported, and
6. the actual cost to the related party.

Federal Requirements

Federal law requires nursing homes that receive Medicaid funding to disclose to the state Medicaid agency information on related parties, including information on:

1. anyone with direct or indirect ownership in the home of 5% or more;
2. officers, director, and partners;
3. managing employees; and
4. anyone who is an "additional disclosable party," defined as any person or entity who (a) exercises operational, financial, or managerial control over the facility or one of its parts, provides policies or procedures for any of the operations, or provides financial or case management services to the facility, (b) leases or subleases real property to the facility, or owns a whole or part interest of 5% of more of its total property value, or (c) provides management or administrative services, management or clinical consulting services, or accounting or financial services to the facility (42 USC § 1320a-3).

Federal regulations permit nursing homes to include as allowable costs those they incurred from procuring services, facilities, and supplies furnished by an entity related by common ownership or control. The maximum allowed is the actual cost to the related party. But the regulations allow homes to include the actual charge for goods and services if the home can demonstrate by convincing evidence that:

1. the supplying organization is a bona fide separate organization;
2. a substantial part of its business activity of the type it is carrying on with the home is also transacted with others and there is an open, competitive market for the type of services, facilities, or supplies the entity provides;
3. the services, facilities, or supplies that institutions commonly obtain from other entities are not a basic element of patient care that the home ordinarily would furnish directly to its residents; and
4. the charge to the home is in line with the charge in the open market and no more than the entity would charge any others for

the same goods and services (42 CFR § 413.17).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 12 Nay 6 (03/18/2014)

Judiciary Committee

Joint Favorable

Yea 26 Nay 14 (04/14/2014)